

***HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE***

***ADMINISTRATIVE RULES REVIEW***

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**House Commerce and Human Resources Committee**

**IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR**

**09.02.10 - RULES OF THE EASTERN SNAKE PLAIN AQUIFER  
MITIGATION GRANT PROGRAM**

**DOCKET NO. 09-0210-0401**

**NOTICE OF RULEMAKING - TEMPORARY RULE**

**EFFECTIVE DATE:** These temporary rules are effective **March 26, 2004**. These rules shall expire at the conclusion of the next succeeding regular session of the legislature unless they are approved, amended or modified by concurrent resolution.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules. This action is authorized pursuant to Section 67-4702, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the supporting reasons for temporary rulemaking: **These rules implement the Department's procedures for project selection, award and disbursement of grant moneys for the Eastern Snake Plain Aquifer Mitigation Grant Program. These rules shall expire at the conclusion of the next succeeding regular session of the legislature unless they are approved, amended or modified by concurrent resolution.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: **These rules provide a benefit to water right holders in the Eastern Snake Plain Aquifer who have a water right with a point of diversion located within the geographical boundaries of Water District 130 or Water District 36-A, as those Water Districts are defined by the Department of Water Resources.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Dwight Johnson at (208) 332-3570 ext. 3209.

DATED this 2nd day of June, 2004.

Dwight Johnson  
Legislative Affairs Manager  
Idaho Department of Commerce and Labor  
ESPA Grant Program  
700 West State Street  
P.O. Box 83720, Boise, Idaho 83720-0092  
(208) 332-3570 ext. 3209 / (208) 334-6430 fax

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0210-0401**

# House Commerce and Human Resources Committee

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**DEPARTMENT OF COMMERCE AND LABOR**  
**Eastern Snake Plain Aquifer Mitigation Grant Program**

**Docket No. 09-0210-0401**  
**Temporary Rule**

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## **IDAPA 09, TITLE 02, CHAPTER 10**

### **09.02.10 - RULES OF THE EASTERN SNAKE PLAIN AQUIFER MITIGATION GRANT PROGRAM**

#### **000. LEGAL AUTHORITY.**

These rules are promulgated under the legal authority of Section 67-4702, Idaho Code.

(3-26-04)T

#### **001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited as IDAPA 09.02.10, "Rules of the Eastern Snake Plain Aquifer Mitigation Grant Program".

(3-26-04)T

**02. Scope.** These rules implement Section (3)(a) of Executive Order No. 2004-02; Paragraph (1)(G) of the Eastern Snake Plain Aquifer Mitigation, Recovery and Restoration Agreement for 2004; and Section 7 of House Bill 843, enacted by the Second Regular Session of the Fifty-seventh Idaho Legislature and signed into law on March 26, 2004. These rules implement the Department's procedures for project selection, award and disbursement of grant moneys for the Eastern Snake Plain Aquifer Mitigation Grant Program.

(3-26-04)T

#### **002. WRITTEN INTERPRETATIONS.**

The Department has no written interpretations of these rules.

(3-26-04)T

#### **003. ADMINISTRATIVE APPEALS.**

The award of grants under the Eastern Snake Plain Aquifer Mitigation Grant Program is a discretionary action to be performed by the Department, with assistance from the Department of Water Resources and the Eastern Snake Plain Aquifer Working Group of the Natural Resources Interim Committee, in furtherance of Section (3)(a) of Executive Order No. 2004-02 and the legislative purposes authorized under Section 7 of House Bill 843, as enacted by the Second Regular Session of the Fifty-seventh Idaho Legislature and signed into law on March 26, 2004. In light of the discretionary nature of awarding grants, there is no administrative appeal under these rules.

(3-26-04)T

#### **004. OFFICE -- OFFICE HOURS -- ADDRESS AND CONTACT INFORMATION.**

**01. Address.** The mailing address of the Department for information regarding the Eastern Snake Plain Aquifer Mitigation Program is: Idaho Department of Commerce and Labor, ESPA Grant Program, 700 West State Street, P.O. Box 83720, Boise, Idaho 83720-0092.

(3-26-04)T

**02. Telephone.** The telephone number is (208) 334-2470 and the facsimile machine number is (208) 334-2631.

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**03. Office Hours.** Office hours are between 8 a.m. and 5 p.m. on regular business days Monday through Friday. (3-26-04)T

**005. INCORPORATION BY REFERENCE.**

The Eastern Snake Plain Aquifer Mitigation, Recovery and Restoration Agreement for 2004 and the Eastern Snake Plain Aquifer Mitigation Program Application Booklet are incorporated herein by reference. Copies of these documents are available for public inspection and copying at the address indicated above or through the internet at: [www.idwr.state.id.us/Committee](http://www.idwr.state.id.us/Committee). (3-26-04)T

**006. PUBLIC RECORDS ACT COMPLIANCE.**

All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (Title 9, Chapter 3, Idaho Code). (3-26-04)T

**007. -- 012. (RESERVED).**

**013. GRANT APPLICATION.**

Only completed applications on forms and in formats approved by the Department will be considered for funding. Approved forms and examples of required formats for Grant Applications are contained in the Department's Eastern Snake Plain Aquifer Mitigation Program Application Booklet. Application Booklets are available from the Department at the address indicated above. At a minimum, a completed Grant Application must contain the following: (3-26-04)T

**01. Cover Letter.** A cover letter, if additional project information is necessary, signed by the authorized official. (3-26-04)T

**02. ESPAM Assistance Grant Application.** A fully completed and signed ESPAM Assistance Grant Application from the Application Booklet. (3-26-04)T

**03. A Budget.** A completed Budget that follows the format contained in the Application Booklet. The Budget will be incorporated into the Grant Contract as Attachment "A" if the project is selected for funding. (3-26-04)T

**04. Scope Of Work.** A completed Scope of Work that follows the format contained in the Application Booklet. The Scope of Work will be incorporated into the Grant Contract as Attachment "B" if the project is selected for funding. The Scope of Work must be a written narrative that provides a clear understanding of the project and how the grant will help solve spring water supply problems. It should succinctly describe how the proposed improvement will: (3-26-04)T

**a.** Contribute to providing a long-term solution to the spring water supply problems associated with the Eastern Snake Plain Aquifer; (3-26-04)T

**b.** Be in place and be capable of producing benefits by the beginning of the 2005 irrigation season; and (3-26-04)T

**c.** Not injure other water right holders. (3-26-04)T

**05. Attachments.** Attachments may be submitted with the Scope of Work as

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necessary to explain the proposed project. Attachments that will be helpful to the Review Committee may include: (3-26-04)T

- a. Map(s) showing the location and boundaries of the project; (3-26-04)T
- b. Schematics of the proposed project; and (3-26-04)T
- c. Support letters. (3-26-04)T

### **014. GRANT ELIGIBILITY CRITERIA.**

Grant proposals seeking reimbursement for existing improvements are not eligible for funding. To be eligible for a grant from the Eastern Snake Plain Aquifer Mitigation Agreement Grant Program, an applicant must: (3-26-04)T

**01. Submit Grant Application.** Submit a completed Grant Application within the time period provided for in the Application Booklet. (3-26-04)T

**02. Be An Affected Spring Water User.** Be an affected spring water user as contemplated by paragraph 1(G) of the Eastern Snake Plain Aquifer Mitigation, Recovery and Restoration Agreement for 2004; (3-26-04)T

**03. Hold A Valid Water Right.** Hold a valid water right having as its source a spring or a spring-fed stream supplied by water that discharges from the Eastern Snake Plain Aquifer and having a point of diversion located within the geographical boundaries of Water District 130 or Water District 36-A, as those Water Districts are defined by the Department of Water Resources; (3-26-04)T

**04. Exhibit A Reduction In Water Availability.** Exhibit a reduction in the availability of water due to decreases in spring water flows that significantly reduces the beneficial use made under the above identified water right; and (3-26-04)T

**05. Propose An Improvement.** Propose an improvement that will: (3-26-04)T

- a. Contribute to providing a long-term solution to the water supply problems associated with the Eastern Snake Plain Aquifer; (3-26-04)T
- b. Be in place and be capable of producing benefits by the beginning of the 2005 irrigation season; and (3-26-04)T
- c. Not injure other water right holders. (3-26-04)T

### **015. GRANT SELECTION CRITERIA.**

In order to optimize the use of limited funds provided by the legislature, the disbursement of funds will be based on priority. The following factors will be used to determine the priority for funding eligible grant proposals: (3-26-04)T

**01. Cost.** Whether the project can be completed with grant funding of twenty-five thousand (\$25,000) or less. (3-26-04)T

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**02. Effective Mitigation.** Whether the project will provide mitigation water from a substitute water source on a permanent basis; (3-26-04)T

**03. Alternative Funding Sources.** Whether funding for the project is available from other sources; (3-26-04)T

**04. Availability Of Matching Funds.** Whether matching funds are available from other sources; (3-26-04)T

**05. Likely Beneficiaries.** The number of parties likely to benefit from the grant; (3-26-04)T

**06. Project Feasibility.** The technical, environmental and legal feasibility of the project; and (3-26-04)T

**07. Level Of Support.** The level of community support. (3-26-04)T

**016. GRANT REVIEW, SELECTION AND AWARD PROCESS.**

Grant Applications that have been timely submitted will go through the following review, selection and award process: (3-26-04)T

**01. Technical Review.** The Department of Water Resources will perform an initial technical review of all completed applications to determine, in its sole discretion, project eligibility according to the grant eligibility criteria. (3-26-04)T

**02. Determination Of Priority.** The Eastern Snake Plain Aquifer Working Group of the Natural Resources Interim Committee will review all eligible applications against the selection criteria and determine, in its sole discretion, the priority in which each eligible application will be considered for funding. (3-26-04)T

**03. Awarding Of Grants.** The Department will review the priority rankings established by the Eastern Snake Plain Aquifer Working Group, award grants, send Notices of Award, and begin the Grant Contracting process. Projects will be funded in the order of their priority ranking until all available funds have been obligated. All applicants that are awarded a grant must execute a Grant Contract with the Department within thirty (30) days of the date of their Notice of Award letter. Grantees who fail to execute a Grant Contract within this time period will lose their eligibility for funding. A copy of the Grant Contract that must be executed by the grantee is included in the Application Booklet. (3-26-04)T

**017. STANDBY APPLICATIONS.**

Applicants meeting the eligibility and selection criteria, but not receiving a Grant Award due to a lower priority ranking or fund unavailability, will become Standby Applications. Standby Application projects shall be eligible for funding in accordance with their priority ranking should grantees with a higher priority ranking fail to timely execute a Grant Contract with the Department. (3-26-04)T

**018. -- 999. (RESERVED).**